

**UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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**WHITE STALLION ENERGY  
CENTER, LLC, *ET AL.*,**

**Petitioners,**

**v.**

**ENVIRONMENTAL PROTECTION  
AGENCY,**

**Respondent.**

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**No. 12-1100 (and consolidated  
cases)**

**JOINT RESPONSE OF STATE, INDUSTRY, AND LABOR PETITIONERS  
TO ENVIRONMENTAL PETITIONERS' MOTION FOR  
RECONSIDERATION OF WORD LIMITS**

The Mercury and Air Toxics Standards Rule (“MATS Rule”), 77 Fed. Reg. 9304 (Feb. 16, 2012), is among the most complex Clean Air Act (“CAA”) rules to be litigated in terms of the multitude of issues raised<sup>1</sup> and parties involved.<sup>2</sup> This

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<sup>1</sup> State, Industry, and Labor Petitioners raised 153 issues in their non-binding statements of issues. State, Industry, and Labor Petitioners’ Proposed Briefing Format and Schedule at 9 (Doc. 1377899).

Environmental Petitioners raised five issues. Environmental Petitioners’ Non-Binding Statement of Issues (Doc. 1375733).

<sup>2</sup> There are four Environmental Petitioners in the MATS Rule litigation: Chesapeake Climate Action Network; Conservation Law Foundation; Environmental Integrity Project; and Sierra Club.

There are 23 State Petitioners joining this response: the States of Michigan; Alabama; Alaska; Arizona; Arkansas; Florida; Idaho; Indiana; Kansas;

litigation is the result of more than 20 years of hazardous air pollutant rulemaking that has amassed the largest and most complex record ever under CAA § 112.

The Court set the briefing schedule and format for this case in an August 24, 2012 order (Doc. 1391295). In that order, *all* parties were allocated fewer words than requested for their respective briefs. For example, Environmental Petitioners requested 11,000 words to address issues in their main brief and received 6,000 words, 54.5% of their request. Similarly, State, Industry, and Labor Petitioners requested 28,000 words to address issues in their main opening briefs and received 15,000 words, 53.6% of their request. Petitioners believe that the word allocations in the Court's briefing order compromise their ability to present the numerous issues raised by EPA's action, and are therefore in some tension with the

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Mississippi; Nebraska; North Dakota; Ohio; Oklahoma; South Carolina; Texas; Utah; West Virginia; Wyoming; the Commonwealths of Pennsylvania and Virginia; Terry E. Branstad, the Governor of Iowa, on behalf of the people of Iowa; and Jack Conway, Attorney General of Kentucky.

The following Industry and Labor Petitioners join this response: National Mining Association; National Black Chamber of Commerce and Institute for Liberty; Utility Air Regulatory Group; Midwest Ozone Group; American Public Power Association; Peabody Energy Corporation; West Virginia Chamber of Commerce *et al.*; United Mine Workers of America; Kansas City Board of Public Utilities; Puerto Rico Electric Power Authority; Chase Power Development, LLC; FirstEnergy Generation Corporation; Edgecombe Genco, LLC and Spruance Genco, LLC; and Wolverine Power Supply Cooperative, Inc.

procedural and substantive guarantees of the Clean Air Act, Administrative Procedure Act, and Due Process Clause of the Fifth Amendment.

Any reconsideration of this Court's briefing order should result in an enlargement in the words allocated to all briefs. Any increase in the length of State, Industry, and Labor Petitioners' briefs should at a minimum be proportional to any enlargement of Environmental Petitioners' opening brief given the fact that Environmental Petitioners raised only five issues while State, Industry, and Labor Petitioners raised 153 issues. *See supra* note 1. If Environmental Petitioners' opening brief were increased in length from 6,000 to 8,000 words -- an increase of 33.3%, the word allocation for State, Industry, and Labor Petitioners' main opening brief(s) should be increased to at least 20,000 words. Commensurate increases should be made to the length of other briefs.

Dated: September 11, 2012

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that, on this 11th day of September 2012, a copy of the Joint Response of State, Industry, and Labor Petitioners to Environmental Petitioners' Motion for Reconsideration of Word Limits was served electronically through the Court's CM/ECF system on all ECF-registered counsel.

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